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UTC

UNITED TELECOM COUNCIL

*The Telecommunications and Information
Technology Association for Utilities, Pipelines,
And Other Critical Infrastructure Companies*

EX PARTE OR LATE FILED

November 1, 2000

Magalie Roman Salas, Secretary
Federal Communications Commission
445 Twelfth Street, N.W. , Room TW-A325
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**Re: Notice of Ex Parte Communication
Land Mobile Balanced Budget Act Proceeding
(WT Docket No. 99-87)**

Dear Ms. Salas:

On October 31, 2000, representatives of the United Telecom Council (UTC, the Council) met with Adam Krinsky, Legal Advisor to Commissioner Gloria Tristani, to discuss issues included in the above-referenced proceeding. In preparation for the meeting, UTC delivered a written list of discussion points; a copy is attached to this Notice.

The issues included in this proceeding are of vital importance to the electrical and gas utilities, water companies, pipelines and other critical infrastructure entities that UTC represents. The Council urged, above all, that the FCC recognize Congressional intent that such entities be exempt from obtaining needed radio spectrum only through an auction process. UTC also urged that the Commission not reallocate existing private land mobile spectrum or attempt to overlay geographic, auction-based licenses on these heavily used frequency bands.

UTC noted that, since receiving auction authority in 1993 and with the exception of a mandated public safety allocation, the FCC has generally made spectrum available only for services included within its competitive bidding authority; i.e., through auctions. Therefore, an auction exemption for critical infrastructure industries is not enough to guarantee continued access to needed spectrum. The Council asked that the Commission consider other means of providing spectrum to these entities.

UTC also offered its view of the Band Manager concept. Such licenses may offer opportunities for private entities to acquire spectrum through leasing; however, the Council is concerned that consistent, compatible system development may be impossible due to Band Managers' affiliations with equipment manufacturers or other restrictions inherent in private arrangements. Band Manager licenses should not be the only means by which private wireless users, especially critical infrastructure industries, obtain access to new spectrum.

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Magalie R. Salas, Secretary

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Pursuant to Section 1.1206 of the Commission's Rules and Regulations, 47 C.F.R. § 1.1206, two copies of this Notice are included. If there are any questions concerning this matter, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Jill M. Lyon", followed by a long horizontal line extending to the right.

Jill M. Lyon
Vice President and General Counsel

cc:

Adam Krinsky, Esq.



Discussion Points -- Land Mobile Radio BBA Proceeding (WT Docket No. 99-87)

1. Conference Report language shows clear Congressional intent that the "public safety radio services" definition, and auction exemption, extend to utilities and pipelines.
2. The FCC must not impose unnecessary mutual exclusivity on existing land mobile frequency bands through creation of geographic-based, auctioned licenses. Such a disaster would not only violate the Congressional directive that the Commission avoid mutual exclusivity, but would disrupt upwards of 20 million end users currently operating in private land mobile frequency bands.
3. It is absolutely necessary to the nation's security and health that critical infrastructure industries have access to completely reliable radio spectrum. UTC does not seek access to current public safety radio spectrum; however, existing and future private wireless allocations should include Public Safety ("guns and hoses"), **Public Service** (critical infrastructure such as utilities, pipelines and water companies) and Industrial/Business pools, with appropriate eligibility restrictions and protection from harmful interference.
4. Should the FCC decide to allocate some future private land mobile spectrum via auction, UTC urges that eligibility restrictions, size of license in terms of spectrum and geography and level of incumbency be considered to ensure that various types of private users are able to compete successfully for this spectrum.
5. UTC supports the concept of Band Manager licenses, so long as a) Band Manager spectrum is made available to a variety of users regardless of affiliation with the licensee, and b) Band Manager licenses are not the only spectrum made available for private wireless use. UTC seeks a nationally allocated, coordinated frequency pool allowing interoperability of systems for future efficiency and improved service to electric, water and gas customers.